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10-24825

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

IN RE:

Ben L. Allen and Jill M. Allen

Debtors.

Central Mortgage Company

Movant,  
vs.

Ben L. Allen and Jill M. Allen, Debtors; Andrew S.  
Nemeth, Trustee.

Respondents.

No. 2:10-bk-27471-CGC

Chapter 7

**MOVANT'S MOTION TO LIFT  
THE AUTOMATIC BANKRUPTCY STAY**

RE: Real Property Located at  
20199 East Calle De Flores  
Queen Creek, AZ 85242

Movant hereby requests an order granting relief from the automatic stay of 11 U.S.C. 362(a), to permit Movant to foreclose the lien of its Deed of Trust on real property owned by Debtors by trustee's sale, judicial foreclosure proceedings or the exercise of the power of sale, and to obtain possession and control of the real property.

1 This motion is supported by the attached Memorandum of Points and Authorities, which is  
2 incorporated herein by this reference.

3 DATED this 10th day of September, 2010.

4 Respectfully submitted,

5 TIFFANY & BOSCO, P.A.

6  
7  
8 BY /s/ MSB # 010167

9 Mark S. Bosco

Leonard J. McDonald

10 Attorney for Movant

11 MEMORANDUM OF POINTS AND AUTHORITIES

12 Ben L. Allen and Jill M. Allen filed a voluntary petition for protection under Chapter 7 of the  
13 Bankruptcy Code. Andrew S. Nemeth was appointed trustee of the bankruptcy estate. Debtors have an  
14 interest in that certain real property located in Maricopa County, AZ, more particularly described as:

15 Lot Forty Nine (49), OF TERRARANCH AT QUEEN CREEK, according to the Plat of record in  
16 the office of the County Recorder of Maricopa County, Arizona, in Book 554 of Maps, Page 40;  
17 and Affidavit of Correction, and Ratification as Document No. 2001-0129171, records of Maricopa  
County, Arizona.

18 Debtors executed a Note secured by a Deed of Trust, dated October 22, 2004, recorded in the  
19 office of the Maricopa County Recorder's Office. True copies of the Note and Deed of Trust are annexed  
20 as Exhibits "A" and "B", respectively, and made a part hereof by this reference. Further, Movant is the  
21 assignee of the Deed of Trust. The assignment of record is annexed as Exhibit "C".

22 Debtors are in default on the obligations to Movant for which the property is security, and  
23 payments are due under the Promissory Note from and after January 1, 2010.

24 Movant is informed and believes and therefore alleges that the Movant and the bankruptcy estate  
25 are not adequately protected based upon the Debtors failure to make payments on a timely basis.

26 Movant is informed and believes and therefore alleges that the Debtors and the bankruptcy estate  
have no equity in the property. Pursuant to Debtors' Statement of Intentions the debtors intend on

1 surrendering the title and possession interest in the subject property. A true and correct copy of the  
2 Debtors' Statement of Intention is attached hereto as Exhibit "D".

3 Debtors are currently in default and contractually due for January 1, 2010.

4 Further, Movant seeks relief for the purpose of foreclosing its Deed of Trust against the Debtor's  
5 interest in the real property located at 20199 East Calle De Flores Queen Creek, AZ. The Movant  
6 further seeks relief in order to contact the Debtor by telephone or written correspondence regarding a  
7 potential Forbearance Agreement, Loan Modification, Refinance Agreement, or other Loan  
8 Workout/Loss Mitigation Agreement, and may enter into such agreement with Debtors.  
9

### 10 CONCLUSION

11 Movant requests that the court enter an order vacating the automatic stay of 11 U.S.C. Section  
12 362(a) as to the debtors, the bankruptcy estate, the property, and Movant; to allow Movant to foreclose the  
13 lien of its Deed of Trust or Mortgage; to evict Debtors and/or successors of Debtors; and to obtain  
14 ownership, possession and control of the Property.

15 DATED this 10th day of September, 2010.

16 TIFFANY & BOSCO, P.A.

17  
18 By /s/ MSB # 010167  
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22 Phoenix, Arizona 85016  
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